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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL RICHARD LYNCH AND
STEPHEN KEITH CHAMBERLAIN

Defendants.

CASE NO. 3:18-cr-00577-CRB

**Joint Stipulation Requesting Court Order
for Deposition of Poppy Gustafsson, Lisa
Harris, and Matt Stephan Pursuant to
Federal Rule Of Criminal Procedure
15(a)(1); [Proposed] Order**

Assigned to Hon. Charles R. Breyer

STIPULATION

WHEREAS, on September 2, 2023, Mr. Chamberlain's counsel informed the government that Mr. Chamberlain intended to file applications to depose Lisa Harris and Poppy Gustafsson in the United Kingdom pursuant to Federal Rule of Criminal Procedure 15(a)(1) ("Rule 15");

WHEREAS, on September 23, 2023, the government informed defense counsel that it intended to file an application to depose Matthew Stephan in Australia pursuant to Rule 15;

WHEREAS, Ms. Harris and Ms. Gustafsson are citizens and residents of the United Kingdom, and Mr. Stephan is a citizen and resident of Australia, and are therefore outside the subpoena power of this Court;

WHEREAS, Ms. Harris, Ms. Gustafsson, and Mr. Stephan have all indicated that they would not voluntarily travel to the United States to testify at a trial in this matter;

WHEREAS, Mr. Chamberlain believes that extraordinary circumstances and the interests of justice support the taking of a Rule 15 deposition of Lisa Harris, a former Autonomy finance team member who reported directly to Mr. Chamberlain during times relevant to this case, because her testimony in the matter captioned *ACL Netherlands BV et al. v. Lynch et al.*, Claim No. HC-2015-001324 in the United Kingdom (the "UK Civil Case"), indicates that she will be able to provide relevant, exculpatory testimony in support of Mr. Chamberlain's defense;

WHEREAS, Mr. Chamberlain believes that extraordinary circumstances and the interests of justice support the taking of a Rule 15 deposition of Poppy Gustafsson, a former Deloitte auditor and Autonomy finance team member who reported directly to Mr. Chamberlain during times relevant to this case, because her testimony in the matter captioned *ACL Netherlands BV et al. v. Lynch et al.*, Claim No. HC-2015-001324 in the United Kingdom (the "UK Civil Case"), indicates that she will be able to provide relevant, exculpatory testimony in support of Mr. Chamberlain's defense, including, but not limited to, testimony on revenue recognition issues related to sales to Value Added Resellers ("VARs"), hybrid-hosting contracts, hardware sales. She is also copied on emails that the Government may use to suggest were indicative of Mr. Chamberlain's criminal intent and, based on her testimony in the UK Civil Case, Mr. Chamberlain believes she will provide testimony that is exculpatory as to him.

1 WHEREAS, the government believes that extraordinary circumstances and the interests of
 2 justice supporting the taking of a Rule 15 deposition of Matthew Stephan because, as
 3 demonstrated by his testimony in the *Hussain* trial, he was an Autonomy finance team member
 4 who reported directly to Mr. Chamberlain, was familiar with sales to VARs, and attributes to Mr.
 5 Chamberlain statements indicative of Mr. Chamberlain's knowledge and criminal intent;

6 WHEREAS, Mr. Chamberlain believes that the Court has the authority under 28 U.S.C.
 7 § 1781(a)(2) and its inherent authority to issue letters rogatory to enforce its Rule 15 order. *United*
 8 *States v. Staples*, 256 F.2d 290, 292 (9th Cir. 1958).

9 WHEREAS, the undersigned have met and conferred regarding all three proposed Rule 15
 10 depositions and agree that the Court should find that extraordinary circumstances and the interests
 11 of justice support those depositions;

12 WHEREAS, to the extent necessary, Mr. Chamberlain will seek, and the government will
 13 not oppose, the issuance of letters rogatory to compel the attendance of Ms. Gustafsson or Ms.
 14 Harris at a Rule 15 deposition;

15 WHEREAS, Dr. Lynch is not a party to this stipulation, but does not oppose issuance of
 16 the order for these depositions and otherwise reserves his right to oppose any other request for a
 17 Rule 15 deposition of other witnesses on any grounds;

18 THEREFORE, the undersigned stipulate and agree, and respectfully request that the Court
 19 should order the following:

20 1. That, due to exceptional circumstances and in the interest of justice, the parties may
 21 depose Lisa Harris and Poppy Gustafsson in the United Kingdom, and Matthew Stephan in
 22 Australia, pursuant to Federal Rule of Criminal Procedure 15(a)(1), at dates and times to be further
 23 negotiated by the parties;

24 2. That the parties may use all or part of the deposition as provided by the Federal
 25 Rules of Evidence, as set forth in Federal Rule of Criminal Procedure 15(f); and

26 3. That if the parties are unable to secure the voluntary appearance of either Ms.
 27 Harris or Ms. Gustafsson at a deposition, the Court will issue the appropriate letters rogatory
 28 pursuant to 28 U.S.C. § 1781(a)(2) requesting that the UK government and/or the Australian

1 government, respectively, compel their testimony, upon further application by the parties.

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3 DATED: September 29, 2023

Patrick Robbins
Attorney for the United States Attorney
Acting Under Authority Conferred by
28 U.S.C. § 515

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7 By: /s/ Robert S. Leach

Robert S. Leach
Adam A. Reeves
Assistant United States Attorneys

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10 DATED: September 29, 2023

Bird, Marella, Boxer, Wolpert, Nessim,
Drooks, Lincenberg & Rhow, P.C.

11
12
13 By: /s/ Gary S. Lincenberg

Gary S. Lincenberg
Ray S. Seilie
Michael C. Landman
Attorneys for Defendant
Stephen Keith Chamberlain

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18 **ATTESTATION**

19 Pursuant to Local Rule 5-1(h)(3), I attest and certify that all other signatories listed, and on
20 whose behalf this filing is submitted, concur with the filing's content and have authorized the
21 filing.

22 /s/ Gary S. Lincenberg
23 Gary S. Lincenberg

[PROPOSED] ORDER

This **CAUSE** having come before the Court upon the parties' Joint Stipulation Requesting Court Order for Deposition of Poppy Gustafsson, Lisa Harris, and Matt Stephan Pursuant to Federal Rule Of Criminal Procedure 15(a)(1). After due consideration of the joint stipulation and the governing law:

IT IS HEREBY ORDERED that the Joint Stipulation is **GRANTED**, that that Poppy Gustafsson, Lisa Harris, and Matt Stephan are Ordered to Appear for a Deposition Pursuant to Federal Rule Of Criminal Procedure 15(a)(1), and that, to the extent necessary, the Court will issue Letters Rogatory to enforce the Court's Order.

IT IS SO ORDERED.

Dated: _____

Hon. Charles R. Breyer
United States District Judge